

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

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Reissue Application No:

Patent No.: **5,765,398**

Filed: **Nov. 4, 1996**

Granted: **Jun. 16, 1998**

REISSUE

Patentee: **Vahran Bardisbanyan**

Assignee: **Marquesa, Inc.**

Title: ***Method and Apparatus for
Assembling Stones in
Jewelry***

Attorney Docket No.: **560.027**

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT

(37 C.F.R. Section 1.102 and M.P.E.P. Section 708.02)

Applicant hereby petitions to make this application special because of actual
infringement.

1. Accompanying material

Accompanying this petition is:

(a) a Statement of Facts in Support of Petition to Make Special Because of Actual

Infringement; and

(b) a Statement by Attorney in Support of Petition to Make Special Because of Actual

Infringement.

2. **Fee** (37 C.F.R. Section 1.17(i))

The fee required is to be paid by:

the attached check for \$130.00.

Charge account 02-2105 for any additional fees required.

A duplicate copy of this petition is attached.

Anna Vishev

Anna Vishev
Registration number 45,018
Levisohn, Lerner, Berger & Langsam
757 Third Avenue
New York, New York 10017
(212) 486-7272

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**STATEMENT OF FACTS IN SUPPORT OF PETITION TO MAKE
SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. §708.02)**

I, Vahran Bardisbanyan, with address at 6710 Valjean Avenue, Van Nuys, California 91406, USA, am the inventor in this case and make the following statements:

1. There is an actual infringement of this invention. The infringing combination of a jewelry item, a gemstone and a connecting member actually in use was sold by Target® department store on or about November of 1999. Target® is not our customer and we have not authorized any use or sale of our product. A photocopy of the infringing product is attached hereto as Exhibit A. The Exhibit A provides a picture of an earring design featuring a combination of a gemstone, a jewelry item and a connecting member, wherein the gemstone is secured by cold soldering a pin of the connecting member to a sleeve underneath the surface of

the jewelry item.

2. In my opinion Claims 28 and 33, as on file resulting from the attached reissue application, is infringed. Claims 28 and 33 read:

28. A combination of a gemstone , an item of jewelry and a connecting member to secure said gemstone to said item of jewelry, said combination comprising:
said item of jewelry having a surface to which said gemstone to be secured;
said gemstone having at least one end, an upper surface, a lower surface, and a girdle in-between, said surface of said item of jewelry comprising an aperture having an opening similarly shaped and slightly smaller than the girdle of said gemstone so that said lower surface of said gemstone projects through said aperture;
said surface of said item of jewelry further comprising at least one additional aperture located adjacent said end of said gemstone;
said connecting member comprising a pin extending downwardly through said additional aperture,
a sleeve located below said surface of said jewelry item;
said connecting member being pushed downwardly on said gemstone to hold said gemstone in place, said sleeve being cold soldered to said pin to secure said connecting member in place.

33. A combination of a gemstone , an item of jewelry and a connecting member to secure said gemstone to said item of jewelry, said combination comprising:
said item of jewelry having a surface against which said gemstone is secured;
said gemstone having at least one end, an upper surface, a lower surface, and a girdle in-between, said surface of said item of jewelry comprising an aperture having an opening similarly shaped and slightly smaller than the girdle of said gemstone so that said lower surface of said gemstone projects through said aperture;
said surface of said item of jewelry further comprising at least one additional aperture located adjacent said end of said gemstone;
said connecting member comprising a pin extending downwardly through said additional aperture;
said connecting member being pushed downwardly on said gemstone to hold said gemstone in place, said pin being cold soldered to said item of jewelry to secure said connecting member in place.

3. I have good knowledge of the pertinent prior art. All such material art was disclosed

and/or uncovered during prosecution of the original patent application resulted in issuance of U.S. Patent No. 5,765,398.

4. That I believe all the claims in this application as on file resulting from the attached reissue application are allowable.

Date: October 18, 2000


Signature

any other information that may be required by the Patent Office in connection with the prosecution of this application.

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Attorney Docket No.: **560.027**

Assistant Commissioner for Patents
Washington, D.C. 20231

**STATEMENT BY PRACTITIONER IN SUPPORT OF PETITION TO MAKE
SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. Section 708.02)**

I, Anna Vishev, an associate of Levisohn, Lerner, Berger & Langsam, 757 Third Avenue, New York, New York 10017, and having registration number 45,018 and telephone number (212) 486-7272, am the attorney for the applicant in this case and make the following statements:

1. I have made a rigid comparison of the alleged infringing product referred to in the accompanying declaration of Vahran Bardisbanyan with the claims of this application.

2. The product that I allege infringes this invention was first discovered to exist in or about November of 1999.

October 18, 2000

Anna Vishev

Anna Vishev

Registration number 45,018